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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,285	02/02/2001	Kazuhiko Eto	1232-4679	2463
27123	7590	05/05/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			SELBY, GEVELL V	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/776,285	Applicant(s) ETO ET AL.	
	Examiner Gevell Selby	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 73-87 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 31-58, 61-66 and 69-72 is/are allowed.
- 6) ☒ Claim(s) 16, 59 and 67 is/are rejected.
- 7) ☒ Claim(s) 17-30, 60, and 68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 73-87 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/29/04.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 16, 59, and 67 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,628,898.

Although the conflicting claims are not identical, they are not patentably distinct from each other because Endo, US 6,628,898 discloses an image sensing apparatus capable of optically correcting blur of an object image by an optical blur correction unit comprising:

an image sensing unit (sensor for detecting vibration that is caused in said optical apparatus) for converting an optical blur correction unit;

a display unit (a display for displaying the image obtained by the optical system) for displaying image signals converted by the image sensing unit;

a control unit (a control unit for controlling driving of said blur correction unit according to an output of said sensor) for controlling an operation of said optical blur correction unit in accordance with a display state of the image signals on said display unit (wherein said control unit changes a vibration detection frequency band depending on whether said finder is used or said display is used), when the image sensing apparatus is ON and in an image sensing mode (It is inherent the image sensor is on and in an image sensing mode because controller operates based on sensor outputs and the image sensor must be on and sensing in order to output) as claimed in claim 1.

The claimed invention does not disclose a finder as claimed in Endo; however, the term comprising is used in the claimed, so the reference must show all the limitations but not be limited to only those components.

In regard to claim 59, because the Endo reference discloses the image sensing apparatus as discussed above in regard to claim 16, control method is also disclosed.

In regard to claim 67, it is inherent the Endo reference has a computer program stored on a computer usable medium, in order to the control unit to perform the controlling of the blur correction unit as explained above in regard to claim 16.

Allowable Subject Matter

4. Claims 1-15, 31-58, 61-66, and 69-72 are allowed.

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5. Claims 17-30, 60, and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 1-15, 57, 58, 65, and 66, the prior art does not disclose the combination of limitations claimed, specifically the limitation of:

a control unit for changing an operation state of said optical blur correction unit depending upon the switching between the ON/OFF states of displaying by said display ON/OFF switch unit.

In regard to claims 31-43 and 61-62, and 69-70, the prior art does not disclose the combination of limitations claimed, specifically the limitation of:

a control unit for activating said optical blur correction unit, after said operation unit is activated, in response to the switching to the OFF state by said display ON/OFF switch unit as claimed in claims 31 and 63.

In regard to claims 44-56 and 63-64, and 71-72, the prior art does not disclose the combination of limitations claimed, specifically the limitation of:

a control unit for activating said optical blur correction unit after said operation unit is activated, in a case where the image signals are not displayed on said display unit as claimed in claim 44.

Conclusion

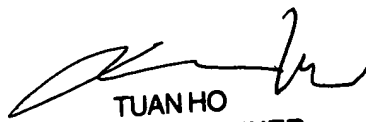
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,572,252, discloses a video camera that stops recording based on a motion sensor; US 6,181,875, discloses turning off a display to indication when shake correction is being made; US 6,064,826, discloses a blur correction device that turns on when the release switch is half pressed and turns off when it is released; US 6,614,996, discloses a camera with a display that turns off when the release button is released.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs


TUAN HO
PRIMARY EXAMINER